

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 JOHN E. RITTMAYER
Deputy Attorney General
4 State Bar No. 67291
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-7485
6 Facsimile: (213) 897-9395
Attorneys for Complainant
7

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against,

Case No. 18-2012-225805

12 **RICHARD J. HOLMES, M.D.**
13 **91275 66th Avenue**
Mecca, California 92254

DEFAULT DECISION
AND ORDER

14 **Physician's and Surgeon's**
15 **Certificate Number A 28516**

[Gov. Code, §11520]

16 One.

17 FINDINGS OF FACT

18 1. On or about May 3, 2013, Complainant Linda K. Whitney, in her official capacity as
19 the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed
20 Accusation No. 18-2012-225805 against Richard J. Holmes, M.D. (Respondent) before the
21 Medical Board of California.

22 2. On or about March 21, 1975, the Medical Board of California (Board) issued
23 Physician's and Surgeon's Certificate No. A 28516 to Respondent. The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on August 31, 2013, unless renewed.

26 3. On or about May 3, 2013, Hye Rim Park, an employee of the Complainant Agency,
27 served by Certified Mail a copy of the Accusation No. 18-2012-225805, Statement to
28 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 91275
2 66th Avenue, Mecca, California, 92254. A copy of the Accusation, the related documents, and
3 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c). Respondent signed a Certified Mail return
6 receipt on May 6, 2013. Respondent failed to file a Notice of Defense within 15 days after
7 service upon him of the Accusation, and therefore waived his right to a hearing on the merits of
8 Accusation No. 18-2012-225805.

9 5. Government Code section 11506 states, in pertinent part:

10 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
11 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
12 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
13 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

14 6. California Government Code section 11520 states, in pertinent part:

15 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
16 agency may take action based upon the respondent's express admissions or upon other evidence
17 and affidavits may be used as evidence without any notice to respondent."

18 7. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on
20 Respondent's express admissions by way of default and the evidence before it contained in
21 Exhibits A, B and C, finds that the allegations in Accusation Number 18-2012-225805 are true.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact grounds exist for action against Respondent's
24 Physician's and Surgeon's Certificate Number A 28516.

25 2. A copy of the Accusation and the related documents and Declaration of Service are
26 attached.

27 3. The agency has jurisdiction to adjudicate this case by default.
28

4. The Medical Board of California is authorized by Business and Professions Code section 822 to revoke Respondent's Physician's and Surgeon's Certificate based upon the following facts alleged in the Accusation: that Respondent suffers from Dementia, Possible Alzheimer's Type, a physical illness affecting competency and as a result cannot safely practice medicine.


ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate Number A 28516, heretofore issued to Respondent Richard J. Holmes, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 18, 2013

It is so ORDERED June 18, 2013


FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Kimberly Kirchmeyer
Interim Executive Director

1 KAMALA D. HARRIS
2 Attorney General of California
3 ROBERT MCKIM BELL
4 Supervising Deputy Attorney General
5 JOHN E. RITTMAYER
6 Deputy Attorney General
7 State Bar No. 67291
8 300 South Spring Street, Suite 1702
9 Los Angeles, California 90013
10 Telephone: (213) 897-7485
11 Facsimile: (213) 897-9395

12 *Attorneys for Complainant*

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14 **MEDICAL BOARD OF CALIFORNIA**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 3 2013
BY H. Park ANALYST

17 In the Matter of the Accusation Against:

Case No. 18-2012-225805

18 RICHARD J. HOLMES, M.D.
19 91275 66th Avenue
20 Mecca, CA 92254

A C C U S A T I O N

21 Physician's and Surgeon's
22 Certificate Number A 28516

23 Respondent.

24 Complainant alleges:

PARTIES

25 1. Complainant Linda K. Whitney brings this Accusation solely in her official capacity
26 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
27 (Board).

28 2. On or about March 21, 1975, the Board issued Physician's and Surgeon's Certificate
Number A 28516 to respondent Richard J. Holmes, M.D. The Physician's and Surgeon's
Certificate was in full force and effect at all times relevant to the charges brought herein and will
expire on August 31, 2013, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2004 of the Code states in part:

3 "The board shall have the responsibility for the following:

4 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
5 Act.

6 "...

7 "(c) Reviewing the quality of medical practice carried out by physician and surgeon
8 certificate holders under the jurisdiction of the board.

9 "...

10 "(h) Issuing licenses and certificates under the board's jurisdiction.

11 "..."

12 5. Code section 822 states:

13 "If a licensing agency determines that its licentiate's ability to practice his or her
14 profession safely is impaired because the licentiate is mentally ill, or physically ill affecting
15 competency, the licensing agency may take action by any one of the following methods:

16 "(a) Revoking the licentiate's certificate or license.

17 "(b) Suspending the licentiate's right to practice.

18 "(c) Placing the licentiate on probation.

19 "(d) Taking such other action in relation to the licentiate as the licensing agency in its
20 discretion deems proper.

21 "The licensing section shall not reinstate a revoked or suspended certificate or license until
22 it has received competent evidence of the absence or control of the condition which caused its
23 action and until it is satisfied that with due regard for the public health and safety the person's
24 right to practice his or her profession may be safely reinstated."

25 CAUSE OF ACTION

26 (Physical Illness Affecting Competency)

27 6. Respondent is subject to action under Section 822 in that he cannot safely practice
28 medicine due to a physical illness affecting competency. The circumstances are as follows:

7. On or about March 8, 2013, respondent underwent a neuropsychological examination that determined that he suffers from dementia and cannot safely practice medicine because of that dementia.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 28516,
issued to Richard J. Holmes, M.D.;

2. Revoking, suspending or denying the approval of his authority to supervise physician assistants, pursuant to Section 3527 of the Code;

3. Ordering him, if placed on probation, to pay the Medical Board of California the costs of probation monitoring and

4. Taking such other and further action as deemed necessary and proper.

DATED: May 3, 2013

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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